

Response Under 37 CFR §1.116

REMARKS

Applicants have studied the Office Action dated July 5, 2002 and have made amendments to the claims. No new matter has been added. It is submitted that the application, as amended, is in condition for allowance. By virtue of this amendment, claims 19-31 are pending. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action, the Examiner:

- rejected claims 25-30 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing particularly point out and distinctly claim the subject matter which the Applicants regard as the invention
- rejected claims 19-31 under 35 U.S.C. § 103(a) as being unpatentable over Huberman.

Rejection under 35 U.S.C. § 112, second paragraph

As noted above, the Examiner rejected claims 25-30 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Specifically, the Examiner cited the use of means language for a method claim and lack of antecedent basis for several phrases. Applicants have amended claims 25-30 to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention and to cure the lack of antecedent basis. In view of these amendments, the Applicants traverse the Examiner's rejection. Therefore, the Examiner's rejection should be withdrawn.

Rejection under 35 U.S.C. §103(a) over Huberman

As noted above, the Examiner rejected claims 19-31 under 35 U.S.C. § 103(a) as being unpatentable over Huberman. The Applicants respectfully traverse this rejection below.

Karen Taragowski

From: Karen Taragowski
Sent: Thursday, August 29, 2002 2:54 PM
To: Jon Gibbons
Subject: RE: can you please verify

- 1) FILED
- 2) MARK
- 3) ALLOWED
- 4) FILED 8/7
- 5) NOT FILED DUE 10/5
- 6) NOT FILED DUE 10/26

160-177-009

Original Message-----

From: Jon Gibbons
Sent: Thursday, August 29, 2002 2:42 PM
To: Karen Taragowski
Subject: can you please verify

Karen,

I am cleaning up my docket.

150-a99-115 response was filed.
110-a99-170 am I on this with anyone?
120-a99-072 - has been allowed
110-a99-148 no response yet filed (I have a draft from Mark)
110-a99-144 " "
110-a99-133 " "

Can you print out a new action report for me through end of year

Thanks

Fleit, Kain, Gibbons, Gutman & Bongini P.L.
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With respect to independent claim 19, the Examiner asserts in the Office Action that the Huberman reference discloses:

(g) *determining if said bid has been accepted, and if so, canceling outstanding bids at other auction sites and terminating the purchasing procedure;*

(h) *otherwise, determining if bidding has been terminated, and if so, proceeding to step (c);*

(i) *determining if time is running out on any of the current outstanding bids, and if so, canceling all high-cost outstanding bids and returning to step (g); and*

(j) *otherwise, returning to step (c) to inquire if there are additional auction sites in which it might be advantageous to place a bid on said product purchase request.*

The Applicants respectfully disagree. The Huberman reference is directed towards system for facilitating brokered auctions for document services. Specifically, the Huberman reference discloses in the Abstract section:

A system and method to enable and facilitate networked, automated, brokered auctioning of document services. A plurality of processes are executed, including a customer process representing a customer, a supplier process representing a supplier, and a broker process capable of serving as an intermediary between the customer and supplier processes. The broker process is provided with a description of a document service. Responsively to the description thus provided, an auction for the document service is conducted, as follows: a customer or supplier process submits a bid for the document service; the broker process receives bidding information including the submitted bid; the broker process attempts to establish a price for the document service responsively to the received bidding information and, if a price can be

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established, establishes the price; If a price is established, the broker process proposes a transaction wherein the document service is to be provided at the established price; and if the proposed transaction is accepted, it can proceed automatically. (Emphasis added).

Note that the excerpt above does not make any mention of a bidder participating in more than one auction. In addition, there is no mention of managing an auction based on the proceedings of another auction. The Huberman reference is directed towards processes and methods for facilitating individual auctions for a product or service by a bidder. Referring to the specification of the Huberman reference, col. 4 line 45 to col. 5 line 32 provides an example of the process described in the Huberman reference:

A concrete example illustrates these ideas. Suppose a company in Des Moines, Iowa needs 100,000 copies of its annual report printed and mailed to its stockholders. According to the invention, the company's purchasing officer . . . contacts a document services broker. . . . The purchasing officer . . . places the printing and mailing request with the broker, providing particulars such as the number of copies to be printed, the size and paper quality of the report, the geographic distribution of the stockholders on the mailing list, the timetable for completion of the job, and any other particulars that will be needed for suppliers to estimate their costs for completing the job. With this information in hand, the broker . . . accepts bids on the job from suppliers (more precisely, software processes that represent the suppliers). The broker can, for example, broadcast or multicast the job requirements to numerous suppliers who can then bid on it in a competitive auction . . .

At the close of the auction, perhaps a few milliseconds or a few seconds later, the broker has determined which supplier has won the auction and at what price. . . . The broker communicates the name and Internet address of the winning supplier to the customer, along with the

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quoted price, and provides the customer with an opportunity to accept or decline the transaction. Assuming that the customer accepts, the transaction goes forward. . . . The report is printed immediately and mailed later that day. Meanwhile, the broker collects a fee from the customer, or the supplier, or both, for services rendered. The fee can be paid electronically or conventionally. (Emphasis added).

Note that nowhere in the example above does the Huberman reference make any mention of a bidder participating in multiple auctions. In addition, there is no mention of managing an auction based on the proceedings of another auction. Referring back to the specification of the Huberman reference, col. 9 lines 56 to col. 11 line 39 describes FIG. 3, which defines the process described in the Huberman reference:

The flowchart of FIG. 3 illustrates the sequence of steps in an automated document services auction in the specific embodiment. . . . In FIG. 3, customer process 210a generates a job request for a document service that is to be the subject of the auction (step A), specifying the particulars of the document service in appropriate detail. . . . Customer process 210a communicates the document service job request along with any specified reservation price to broker process 230 via network 100 (step C).

Once broker process 230 receives the job request from customer process 210a, broker process 230 can hold an auction for the requested document service (step D). At the outset, broker process 230 informs supplier processes 220 acting on behalf of prospective suppliers that an auction will be held for the requested document service (step E). For example, broker process 230 can announce or broadcast the particulars of the job request via network 100. Then, either immediately thereafter or at a time scheduled by the announcement or broadcast, broker process 230 opens the bidding and begins to accept bids from supplier processes

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220 (step F). Any or all of supplier processes 220 can participate in the bidding. . . .

During the bidding, each of the supplier processes 220 can generate a bid or, if the auction rules so allow, a series of bids (step G). Supplier processes 220 communicate their respective bids via network 100 to broker process 230 (step H), which automatically accepts these bids for consideration (step 1). . . . If the same supplier has authorized provision of the service for a lower price of \$80 at a point later in the auction, and the auction rules permit a series of bids by a single bidder, supplier process 220a can at that point generate and send to broker process 230 another bid for \$80.

Broker process 230 continues to accept bids until an ending criterion for the auction is met (step J). For example, the auction can end after a certain time interval has elapsed or when a certain maximum number of bids has been received, whichever comes first, or when no further bids are received for some elapsed time interval (analogous to "Going, going, gone!" as called by a human auctioneer in a traditional oral auction), or upon satisfaction of any other appropriate ending criterion or criteria. Thereafter, bidding closes (step K).

With all bids in, broker process 230 can determine which of the supplier processes 220, if any, has won or potentially won the auction. If customer process 210a has set a reservation price (step L), broker process 230 eliminates all bids at prices above the reservation price (step M). If there were no bids at or below the reservation price (or, if no reservation price was set, if there were no bids at all submitted during the auction), (step N), broker process 230 declares that there is no winning supplier (step Y) and the auction ends (step Z) without any striking of a bargain.

If there was at least one bid at or below the reservation price, or if no reservation price was specified, broker process 230 selects a winning

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bid or a set of one or more potential winning bids (step O). (Emphasis added).

Thus, the Huberman reference describes the automation of a single auction process wherein multiple bidders place bids in a single auction. Note that nowhere in the description above does the Huberman reference make any mention of a bidder participating in multiple auctions. In addition, there is no mention of managing an auction based on the proceedings of another auction.

The Huberman reference does, however, make mention of a bidder participating in multiple auctions later in the specification. This is described in col. 18 lines 25-50 of the Huberman reference:

Multiple Auctions

Thus far, individual automated document services auctions and transactions have been described. Typically, however, a marketplace involves an ongoing series or stream of auctions and transactions. For example, many customer processes 210 are likely to request different document services jobs at the same time. Accordingly, there can be many auctions at once and many auctions in rapid succession, and different auctions that overlap in time.

In the specific embodiment, depending on the communications bandwidth supported by network 100 and the processing power available to support broker process 230, broker process 230 can be configured to conduct multiple auctions for multiple jobs contemporaneously. Likewise, a given customer process 210 or supplier process 220 can be configured to be able to participate in multiple auctions contemporaneously. Each auction is for a separate job, that is, for a separately specified document service, and has at most one winning customer process 210 and at most one winning supplier process 220. Each auction is separately carried out according to the steps described above with reference to FIG. 3 or FIG. 4 as appropriate. In determining the results of any given auction, broker

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process 230 need not take into account the proceedings or results of any other auction. (Emphasis added).

Thus, the Huberman reference does allow a bidder to participate in multiple auctions. However, note that each auction is "separately carried out according to the steps described above with reference to FIG. 3 or FIG. 4." Thus, the provision of allowing a bidder to participate in multiple auctions is nothing more than extending the system described in FIG. 3 and FIG. 4 (for an individual auction) to encompass more than one auction. There is no mention, however, of managing an auction based on the proceedings of another auction.

Applicants' invention, however, is directed towards a system where a bidder is allowed to participate in multiple auctions and multiple auctions are managed based on the proceedings of another auction. Independent claim 19 states:

- (g) *determining if said bid has been accepted, and if so, canceling outstanding bids at other auction sites and terminating the purchasing procedure;*
- (h) *otherwise, determining if bidding has been terminated, and if so, proceeding to step (c);*
- (i) *determining if time is running out on any of the current outstanding bids, and if so, canceling all high-cost outstanding bids and returning to step (g); and*
- (j) *otherwise, returning to step (c) to inquire if there are additional auction sites in which it might be advantageous to place a bid on said product purchase request.*

Thus, the claims states that if a bid has been accepted in one auction, then bids in other auctions are cancelled (step g). Further, if a bid is terminated by the brokering agent, then another auction is sought for bidding (step h). In addition, if time is running out on a current outstanding bid, then all other high-cost bids in other auctions are cancelled (step j). Lastly, if time is running out on any current outstanding bids, then

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another auction is sought for bidding (step j). Note that Applicants' invention allows a bidder to participate in multiple auctions and allows management of auctions based on the proceedings of other auctions. This is described in the specification of the present invention at pages 16-17:

Auction Bid Controller (0106)

As explained above, the Auction Bid Controller (ABC) (0106) component is responsible for the whole bid management process. The ABC (0106) receives its task from the Result Definition and Verification Unit (0109). With this information, the ABC (0106) starts to look for an auction that offers the desired item for the lowest price. The ABC (0106) then forwards a bid request to the Auction Command Interface (0107). The ABC (0106) keeps track of the status of all auctions. If a bid request was successful, it will receive a notification from the Auction Confirmation Receiver (0108). The corresponding auction in the list will be then marked as "active". There may be zero or more auctions marked as active at any given time.

From time to time the ABC (0106) may request a status update from the Item Search Manager (0104). The reason for this is to find out whether there are additional auctions available for the particular item that were not listed previously. It could be the case that a new auction was detected for the item that posts a lower price than the current active auction. In this case, the Auction Bid Controller (0106) will try to place a smaller bid there. If successful, it will cancel other active auctions with a higher bid price. The overall goal is to have at least one active auction that should produce the lowest price for the item.

In case the Auction Bid Controller (0106) receives an outbid notice from the Auction Confirmation Receiver (0108) for an active auction, it has to determine whether it makes sense to place a higher bit on this auction, or whether there is an auction where even a lower bid could be placed, in order to have the highest accepted bid in a given auction. In case there

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are no other auctions and the maximum price range for the item has not exceeded, it will request a higher bid for the auction from where it received the outbid notification.

Finally, if the Auction Bid Controllor (0106) receives an "end of auction" notice, where it placed the highest bid (and therefore won the auction), the item is marked as "success". All other active auctions will be canceled (a cancel request will be send to the Auction Command Interface). The information of the successful auction purchase will then be passed to the purchaser in order that the purchaser may be able to contact the seller regarding payment and delivery. (Emphasis added).

The Applicants' invention, therefore allows a bidder to participate in multiple auctions and allows management of auctions based on the proceedings of other auctions while the Huberman reference does not allow management of auctions based on the proceedings of other auctions. The management of auctions based on the proceedings of other auctions is fundamental to the Applicants' invention. Therefore, independent claim 19 distinguishes over Huberman taken alone or in view of the Examiner's Official Notice. Huberman taken alone or in view of the Examiner's Official Notice does not describe, teach nor suggest the recited elements of claim 19. Therefore, the Examiner's rejection should be withdrawn.

Independent claims 25 and 31 include all of the limitations of independent claim 19. Therefore, for the reasons stated above for independent claim 19, Independent claims 25 and 31 distinguish over Huberman taken alone or in view of the Examiner's Official Notice. Huberman taken alone or in view of the Examiner's Official Notice does not describe, teach nor suggest the recited elements of claims 25 and 31. Therefore, the Examiner's rejection should be withdrawn.

Dependant claims 20-24 and 26-30 depend from independent claims 19, 25 and 31, respectively. Since dependent claims contain all the limitations of the independent claims, claims 20-24 and 26-30 distinguish over the references above. Therefore, the Examiner's rejection should be withdrawn.

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CONCLUSION

In view of the foregoing, Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE CALL the undersigned if that would expedite the prosecution of this application.

Respectfully submitted.

Date: 9-3-02By: [Signature]

Mark P. Terry

(Reg. No. 47,133)

Date: 9/10/02By: [Signature]

Jon A. Gibbons

(Reg. No. 37,333)

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PLEASE Direct All Correspondence to Customer Number 23334



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IN THE CLAIMS (MARKED UP COPY)

19. A method for purchasing products using a purchasing agent, the method comprising [the steps of]:

[(a)] utilizing a user dialog to register at one or more auction sites to obtain a user identification and/or password;

[(b)] utilizing a user dialog to enter a product purchase request;

[(c)] communicating with a first and/or next auction site;

[(d)] determining if said product purchase request is available, and if not, proceeding to [step (c)] the communicating step;

[(e)] determining if [the] a current bid from said auction site is below [the] a limit maximum permitted, and if not, proceeding to [step (c)] the communicating step;

[(f)] placing a bid for said product purchase request with said auction site;

[(g)] determining if said bid has been accepted[,] and if so, canceling outstanding bids at other auction sites [and terminating the purchasing procedure];

[(h)] otherwise, determining if bidding has been terminated[,] and if so, proceeding to [step (c)] the communicating step;

[(i)] determining if time is running out on any [of the] current outstanding bids[,] and if so, canceling all high-cost outstanding bids and returning to [step (g)] the third determining step; and

[(j)] otherwise, returning to [step (c)] the communicating step to inquire if there are additional auction sites in which it might be advantageous to place a bid on said product purchase request.

20. The [purchasing agent] method of Claim 19 wherein one or more of said method steps is implemented using a personal computer [(PC)].

21. The [purchasing agent] method of Claim 20 wherein said product purchase requests are generated by a manufacturing resource and/or inventory planning [(MRP)] system to supply parts and/or materials and/or supplies for a commercial enterprise.

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22. The [purchasing agent] method of Claim 19 when in said product purchase requests are generated by a manufacturing resource and/or inventory planning [(MRP)] system to supply parts and/or materials and/or supplies for a commercial enterprise.

23. The [purchasing agent] method of Claim 19 wherein said auction site is an Internet-based web auction site.

24. The [purchasing agent] method of Claim 19 wherein said [step (f)] placing step prioritizes bid placement to permit only [the] lowest cost auction sites to be utilized in the bidding process.

25. A system for purchasing products using a purchasing agent [method comprising the steps of], comprising:

[(a)] means for utilizing a user dialog to register at one or more auction sites to obtain a user identification and/or password;

[(b)] means for utilizing a user dialog to enter a product purchase request;

[(c)] means for communicating with a first and/or next auction site;

[(d)] means for determining if said product purchase request is available, and if not, proceeding to [step (c)] the means for communicating;

[(e)] means for determining if [the] a current bid from said auction site is below [the] a limit maximum permitted, and if not, proceeding to [step (c)] the means for communicating;

[(f)] means for placing a bid for said product purchase request with said auction site;

[(g)] means for determining if said bid has been accepted[,] and if so, canceling outstanding bids at other auction sites [and terminating the purchasing procedure];

[(h)] means for otherwise determining if bidding has been terminated, and if so, proceeding to [step (c)] the means for communicating;

[(i)] means for determining if time is running out on any [of the] current outstanding bids[,] and if so, canceling all high-cost outstanding bids and returning to

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[step (g)] the third means for determining; and

[(j)] means for otherwise returning to [step (c)] the means for communicating to inquire if there are additional auction sites in which it might be advantageous to place a bid on said product purchase request.

26. The [purchasing agent method] system of Claim 25 wherein one or more of said means is implemented utilizing a personal computer [(PC) means].

27. The [purchasing agent method] system of Claim 26 wherein said product purchase requests are generated by a manufacturing resource and/or inventory planning [(MRP)] system to supply parts and/or materials and/or supplies for a commercial enterprise.

28. The [purchasing agent method] system of Claim 25 wherein said product purchase requests are generated by a manufacturing resource and/or inventory planning [(MRP)] system to supply parts and/or materials and/or supplies for a commercial enterprise.

29. The [purchasing agent method] system of Claim 25 wherein said auction site is an Internet-based web auction site.

30. The [purchasing agent method] system of Claim 25 wherein said [step (f)] means for placing prioritizes bid placement to permit only [the] lowest cost auction sites to be utilized in the bidding process.

31. A [computer usable medium having computer-readable program code means providing purchasing agent automation, said computer-readable comprising instructions for] computer-readable medium comprising instructions for purchasing products using a purchasing agent, the computer instructions including instructions for:

[(a)] utilizing a user dialog to register at one or more auction sites to obtain a user identification and/or password;

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- [(b)] utilizing a user dialog to enter a product purchase request;
- [(c)] communicating with a first and/or next auction site;
- [(d)] determining if said product purchase request is available, and if not, proceeding to [step (c)] the communicating step;
- [(e)] determining if [the] a current bid from said auction site is below [the] a limit maximum permitted, and if not, proceeding to [step (c)] the communicating step;
- [(f)] placing a bid for said product purchase request with said auction site;
- [(g)] determining if said bid has been accepted[,] and if so, canceling outstanding bids at other auction sites [and terminating the purchasing procedure];
- [(h)] otherwise determining if bidding has been terminated[,] and if so, proceeding to [step (c)] the communicating step;
- [(i)] determining if time is running out on any [of the] current outstanding bids[,] and if so, cancelling all high-cost outstanding bids and returning to [step (g)] the third determining step; and
- [(j)] otherwise returning to [step (c)] the communicating step to inquire if there are additional auction sites in which it might be advantageous to place a bid on said product purchase request.